

**APPENDIX D**  
**RELEVANT STATUTES, REGULATIONS, AND GUIDELINES**



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## GENERAL

*National Environmental Policy Act (NEPA) of 1969 (Public Law [PL] 91-190, 42 United States Code [USC] 4347, as amended).* Requires federal agencies to take the environmental consequences of proposed actions into consideration in their decision-making process. The intent of NEPA is to protect, restore or enhance the environment through well informed federal decisions. The Council on Environmental Quality (CEQ) was established under NEPA to implement and oversee federal policy in this process.

*Air Force Instruction 32-7061, Environmental Impact Analysis Process (EIAP), as promulgated at 32 CFR Part 989.* Air Force implementation of the procedural provisions of NEPA and CEQ regulations.

*AFPD 32-70, Environmental Quality.* Requires that the Air Force comply with applicable federal, state, and local environmental laws and regulations, including NEPA. Executive Order (EO) 11514, Protection and Enhancement of Environmental Quality, as amended by EO 11991, sets policy directing the federal government in providing leadership in protecting and enhancing the environment.

*Intergovernmental Coordination Act and EO 12372, Intergovernmental Review of Federal Programs.* Requires federal agencies to cooperate with and consider state and local views in implementing a federal proposal. AFI 32-7061 requires proponents to implement a process known as Interagency and Intergovernmental Coordination for Environmental Planning (IICEP), which is used for the purpose of agency coordination and implements scoping requirements.

*Ensuring Quality of Information Disseminated to the Public by the Department of Defense.* This memorandum, signed February 10, 2003 requires that all components of the Department of Defense adopt standards of data quality for information they disseminate.

## AIRSPACE MANAGEMENT

*Federal Aviation Act of 1958.* Created the Federal Aviation Administration (FAA) and charges the FAA Administrator with ensuring the safety of aircraft and the efficient utilization of the National Airspace System, within the jurisdiction of the United States.

*Federal Aviation Regulation Part 71 (1975).* Delineates the designation of federal airways, area low routes, controlled airspace, and navigational reporting points.

*Federal Aviation Regulation Part 73 (1975).* Defines special use airspace and prescribes the requirements for the use of that airspace.

*Federal Aviation Regulation Part 91 (1990).* Describes the rules governing the operation of aircraft within the United States.

**FAA Order 7400.2.** Prescribes policy, criteria, and procedures applicable to rulemaking and non-rulemaking actions associated with airspace allocation and utilization, obstruction evaluation and marking airport airspace analyses, and the establishment of air navigation aids.

**FAA Order 7110.65.** Prescribes air traffic control procedures and phraseology for use by personnel providing air traffic control services in the United States.

**AFI 13-212 Volume 1, 2 and 3 Range Planning and Operations.** Ensures that Air Force ranges are planned, operated, and managed in a safe manner; that all required equipment and facilities are available to support range use, and that proper security for range assets is present.

## **ACOUSTIC ENVIRONMENT**

**Executive Order (EO) 12088 Federal Compliance with Pollution Control Standards (1978).**

Requires the head of each executive agency to be responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution, including noise pollution, with respect to federal facilities and activities under the control of the agency.

**Federal Interagency Committee on Urban Noise (1980).** Defines noise levels for various land uses and may result in areas that will not qualify for federal mortgage insurance. Additional sections allow for noise attenuation measures that are often required for HUD approval.

## **SAFETY**

**AFI 32-2001 The Fire Protection Operations and Fire Prevention Program (1 April 1999).**

Defines the requirements for Air Force installation fire protection programs, including equipment, response times, and training.

**AFI 32-3001 Explosive Ordnance Disposal Program (1 October 1999).** Regulates and provides procedures for explosives safety and handling. Defines criteria for quantity distances, clear zones, and facilities associated with ordnance.

**AFI 91-202 The US Air Force Mishap Prevention Program (1 August 1998).** Establishes mishap prevention program requirements, assigns responsibilities for program elements, and contains program management information.

**AFI 91-301, Air Force Occupational and Environmental Safety, Fire Protection, and Health (AFOSH).** Program implements AFD 91-3, Occupational Safety and Health by outlining the AFOSH Program. The purpose of the AFOSH Program is to minimize loss of Air Force resources and to protect Air Force people from occupational deaths, injuries, or illnesses by managing risks.

**Air Force Manual 91-201, Safety: Explosives Safety Standards.** Establishes safety standards, provides planning guidance, and defines safety requirements for explosives operations

of any kind (including testing, disassembling, modifying, storing, transporting, and handling explosives or ammunition) at Air Force facilities.

***Department of Defense Flight Information Publication.*** Indicates locations of potential hazards (e.g., bird aggregations, obstructions, and noise sensitive locations) under military airspace and defines horizontal and/or vertical avoidance measures. Updated monthly to present current conditions.

## **AIR QUALITY**

***Clean Air Act (Title 40 CFR parts 50 and 51) amended in 1977 and 1990.*** Dictates the National Ambient Air Quality Standards (NAAQS) must be maintained nationwide. Delegates authority to state and local agencies to enforce the NAAQS and to establish air quality standards and regulations of their own. Section 169A states that a national goal is to prevent any further impairment of visibility within federally mandated Class I areas such as National Parks and Wilderness Areas from man-made sources of air pollution.

***EO 12088 Federal Compliance with Pollution Control Standards (1988).*** Requires the head of each executive agency to be responsible for ensuring that all necessary actions are taken for the prevention, control, and abatement of environmental pollution with respect to federal facilities and activities under the control of the agency.

## **PHYSICAL RESOURCES**

***Federal Water Pollution Control Act of 1948.*** Establishes procedures and programs for the restoration and maintenance of the chemical, physical, and biological integrity of the nation's waters, thus protecting habitat conditions in aquatic and wetland ecosystems.

***Clean Water Act of 1977 (33 USC 1251-1387).*** Requires a National Pollution Discharge Elimination System (NPDES) permit for all discharges into waters of the United States to reduce pollution that could affect any form of life. Section 404 of this act regulates development in streams and wetlands and requires a permit from the U.S. Army Corps of Engineers.

***EO 19988 Floodplain Management (1977).*** Requires that governmental agencies, in carrying out their responsibilities, provide leadership and take action to restore and preserve the natural and beneficial values served by floodplains.

## **BIOLOGICAL RESOURCES**

***Lacey Act of 1900 (16 USC 3371-13378).*** Brings the unlawful taking of fish, wildlife, and plants under federal jurisdiction by prohibiting specimens taken illegally from being shipped across state boundaries.

***Migratory Bird Treaty Act of 1918 (16 USC 701-715s).*** Establishes protection for migratory birds and their parts (including eggs, nests, and feathers) from hunting, capture, or sale.

***Bald Eagle Protection Act of 1940 (16 USC 668-668c).*** Protects bald eagles and golden eagles by prohibiting the take, possession, or transportation of these species, dead or alive, and includes protection of their nests and eggs.

***Fish and Wildlife Coordination Act of 1958 (16 USC 661-666c as amended).*** Provides for conservation and management of fish and wildlife by encouraging cooperation between the U.S. Fish and Wildlife Service and other federal, state, public, and private agencies.

***Wilderness Act of 1964 (16 USC 1131).*** Directs the Secretary of the Interior to review every roadless area greater than or equal to 5,000 acres and every roadless island (regardless of size) within National Wildlife Refuge and National Park Systems and to recommend to the President the suitability of each such area or island for inclusion in the National Wilderness Preservation System. The act provides criteria for determining suitability and establishes restrictions on activities that can be undertaken on designated areas.

***Endangered Species Act of 1973 (16 USC 1531-1544, as amended).*** Establishes measures for the conservation of plant and animal species listed, or proposed for listing, as threatened or endangered, including the protection of critical habitat necessary for their continued existence.

***EO 11990 Protection of Wetlands (1977).*** Requires the governmental agencies, in carrying out their responsibilities, to provide leadership and take action to minimize the destruction, loss, or degradation of wetlands and to preserve and enhance the natural and beneficial values of wetlands. Factors to be considered include conservation and long-term productivity of existing flora and fauna, species and habitat diversity and stability, hydrologic utility, fish, and wildlife.

***Fish and Wildlife Conservation Act of 1980 (16 USC 2901-2911 as amended).*** Promotes state programs, and authorizes funding for grants, aimed at developing and implementing comprehensive state non-game fish and wildlife management plans.

***North American Wetlands Conservation Act (16 USC 4401-4412) (1989).*** Supports the management and preservation of waterfowl by funding the implementation of the North American Waterfowl Management Plan and the Tripartite Agreement on wetlands between Canada, the U.S., and Mexico.

***EO 13186 Responsibilities of Federal Agencies to Protect Migratory Birds (Section 3 Federal Agency Responsibilities (e)(6)).*** Ensures that environmental analyses of Federal actions required by NEPA or other established environmental review processes evaluate the effects of actions and agency plans on migratory birds, with emphasis on species of concern.

## **CULTURAL RESOURCES**

***National Historic Preservation Act of 1966, as amended.*** Provides the principal authority used to protect historic properties, establishes the National Register of Historic Places (NRHP), and defines, in Section 106, the requirements for federal agencies to consider the effects of an action on properties listed on, or eligible for, the NRHP.

***Archaeological Resources Protection Act (ARPA) of 1979 (16 USC section 470aa-47011).***

Ensures the protection and preservation of archaeological sites on federal or Native American lands and establishes a permitting system to allow legitimate scientific study of such resources.

***Protection of Historic and Cultural Properties (36 CFR section 800) (2000).*** Provides an explicit set of procedures for federal agencies to meet their obligations under the National Historic Preservation Act including inventorying resources and consultation with State Historic Preservation Officers (SHPOs) and federally recognized tribes.

***Native American Graves Protection and Repatriation Act of 1990 (25 USC 3001-3013).***

Requires protection and repatriation of Native American burial items found on, or taken from, federal or tribal lands, and requires repatriation of burial items controlled by federal agencies or museums receiving federal funds.

***AFI 32-7065 Cultural Resource Management (2004).*** Sets guidelines for protecting and managing cultural resources on lands managed by the Air Force.

***American Indian Religious Freedom Act of 1978 (42 USC section 1996).*** States that it is the policy of the United States to protect and preserve for American Indians their inherent right of freedom to believe, express, and exercise the traditional religions including but not limited to access to sites, use and possession of sacred objects, and the freedom to worship through ceremonial and traditional rites.

***EO 13007 Indian Sacred Sites (1996).*** Requires that, to the extent practicable, federal agencies accommodate access to, and ceremonial use of, sacred sites by Native American religious practitioners, and to avoid adversely affecting the physical integrity of sacred sites.

***EO 13084 Consultation and Coordination with Indian Tribal Governments (1998).*** Requires that federal agencies have an effective process to permit elected officials and other representatives of Indian tribal governments to provide meaningful and timely input in the development of regulatory policies on matters that significantly or uniquely affect their communities.

***Department of Defense (DoD) American Indian and Alaska Native Policy (21 November 1999).***

This policy emphasizes the importance of respecting and consulting with tribal governments on a government-to-government basis and requires an assessment, through consultation, of proposed DoD actions that may have the potential to significantly affect protected tribal resources, tribal rights, and Indian lands before decisions are made by the services.

## **LAND USE**

***Department of Transportation Act of 1966 (49 USC 303), Section 4(f) (formerly 49 USC 1651***

***(b)(2) and 49 USC 1653f).*** Protection of certain public lands and all historic sites was originally mandated in Section 4(f) of the 1966 Department of Transportation Act.

Public law 90-495 (amended in 1968) amended Section 4(f) to its most commonly known

form. In 1983, PL 97-449 re-codified the Act from 49 USC 1651 to 49 USC 303. Congress has amended this Act three other times without substantive changes. It is referred to as Section 4(f) in the Federal Highway Administration Environmental Procedures (23 CFR 772). It declares a national policy to preserve, where possible, “the natural beauty of the countryside and public park and recreation lands, wildlife and waterfowl refuges, and historic sites.” It protects cultural resources that are on or eligible for the National Register of Historic Places.

***Section 6(f) (3)-Land and Water Conservation Funds Act.*** Section 6(f)(3) of the 1964 Land and Water Conservation Funds (L&WCF) Act requires that all property acquired or developed with L&WCF assistance be maintained perpetually in public recreation use. Title 36, Chapter 1, Part 59 describes post-completion compliance responsibilities. These responsibilities apply to each 6(f) property regardless of the extent of program participation. The State is responsible for compliance and enforcement of these provisions and to ensure consistency with the contractual agreement with the National Park Service.

## **ENVIRONMENTAL JUSTICE**

***EO 12898 Federal Actions to Address Environmental Justice in Minority Populations and Low-Income Populations (1995).*** Requires federal agencies to identify and address disproportionately high and adverse human health or environmental effects of their programs, policies, and activities on minority and low-income populations. The essential purpose of EO 12898 is to ensure the fair treatment and meaningful involvement of all people regardless of race, color, national origin, or income with respect to the development, implementation, and enforcement of environmental laws, regulations, and policies.

***AF Guidance, Interim Guide for Environmental Justice Analysis with the Environmental Impact Analysis Process (November 1997).*** Provides guidance for implementation of EO 12898 in relevant Air Force environmental impact assessments.

***EO 13045 Protection of Children from Environmental Health Risks and Safety Risks (1998).*** This Executive Order directs federal agencies to identify and assess environmental health and safety risks that may disproportionately affect children.